

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

PAUL ANTHONY WHITE,

Plaintiff,

v.

Case No. 3:20-cv-655-MMH-PDB

CENTURION, et al.,

Defendants.

ORDER

Plaintiff Paul White, a former inmate in the custody of the Florida Department of Corrections, initiated this action on June 24, 2020,¹ by filing a pro se Civil Rights Complaint (Doc. 1) pursuant to 42 U.S.C. § 1983. On October 1, 2020, Defendants filed a Suggestion of Death of Paul White and Motion to Stay Proceedings (Doc. 9). On October 6, 2020, the Court entered an order staying the case for 120 days and directed Defendants to comply with Federal Rule of Civil Procedure 25(a)(1). Before the Court is Defendant's Fourth Notice Regarding Suggestion of Death of Paul White (Doc. 17), in which they

¹ See Houston v. Lack, 487 U.S. 266, 276 (1988) (mailbox rule).

represent that on November 9, 2020, they served the suggestion of death on White's successor or representative as required by Rule 25.

Rule 25(a)(1) provides:

If a party dies and the claim is not extinguished, the court may order substitution of the proper party. A motion for substitution may be made by any party or by the decedent's successor or representative. If the motion is not made within 90 days after service of a statement noting the death, the action by or against the decedent must be dismissed.

Fed. R. Civ. P. 25(a)(1). While Rule 25(a) provides for dismissal of an action following death if no timely motion for substitution is filed, two affirmative steps must be taken before the ninety-day substitution period begins to run. First, a party must formally suggest the death on the record, and, second, the party that filed the suggestion of death must serve nonparty successors or representatives of the decedent with the suggestion of death in accordance with Rule 4 of the Federal Rules of Civil Procedure. See Lizarazo v. Miami-Dade Corr. & Rehab. Dep't, 878 F.3d 1008, 1009 (11th Cir. 2017); McGuinness v. Novartis Pharmaceuticals Corp., 84 Fed. R. Serv. 3d 1023, 1023 (M.D. Fla. 2013). Defendants have accomplished both steps. Additionally, ninety days have passed since Defendants served the suggestion of death on White's successor. Accordingly, the Stay is due to be lifted and this action dismissed pursuant to Rule 25(a)(1).

In light of the above, it is

ORDERED:

- 1.) The stay imposed on October 6, 2020, is **LIFTED**.
- 2.) This action is **DISMISSED**. The Clerk of Court shall enter judgment dismissing this case, terminating any pending motions, and closing the case.

DONE AND ORDERED at Jacksonville, Florida, this 10th day of February, 2021.


MARCIA MORALES HOWARD
United States District Judge

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Counsel of Record